

1-1 By: Hopson, et al. (Senate Sponsor - Shapiro) H.B. No. 3670
1-2 (In the Senate - Received from the House May 12, 2009;
1-3 May 13, 2009, read first time and referred to Committee on
1-4 Administration; May 20, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 20, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the regulation of the practice of dental assistants,
1-9 including the delegation of certain dental acts.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 258.002(a), Occupations Code, is amended
1-12 to read as follows:

1-13 (a) A licensed dentist may delegate to a qualified and
1-14 trained dental assistant acting under the dentist's general or
1-15 direct supervision any dental act that a reasonable and prudent
1-16 dentist would find is within the scope of sound dental judgment to
1-17 delegate if:

1-18 (1) in the opinion of the delegating dentist, the act:

1-19 (A) can be properly and safely performed by the
1-20 person to whom the dental act is delegated; and

1-21 (B) is performed in a customary manner and is not
1-22 in violation of this subtitle or any other statute; ~~and~~

1-23 (2) the person to whom the dental act is delegated does
1-24 not represent to the public that the person is authorized to
1-25 practice dentistry; and

1-26 (3) the person to whom the dental act is delegated
1-27 holds the appropriate certificate, if a certificate is required to
1-28 perform the act.

1-29 SECTION 2. Chapter 265, Occupations Code, is amended by
1-30 adding Section 265.0001 to read as follows:

1-31 Sec. 265.0001. DEFINITIONS. In this chapter:

1-32 (1) "Coronal polishing" means the removal of plaque
1-33 and extrinsic stain from exposed natural and restored tooth
1-34 surfaces using an appropriate rotary instrument with rubber cup or
1-35 brush and polishing agent, including the use of a toothbrush.

1-36 (2) "Interim treatment of a minor emergency dental
1-37 condition" means treatment of a condition that:

1-38 (A) arises unexpectedly;

1-39 (B) causes pain or discomfort to the patient;

1-40 (C) is considered reversible;

1-41 (D) does not require cutting hard or soft tissue;

1-42 and

1-43 (E) in the opinion of the treating dentist, may
1-44 be performed by a properly trained dental assistant.

1-45 SECTION 3. Section 265.002, Occupations Code, is amended to
1-46 read as follows:

1-47 Sec. 265.002. SUPERVISION, DIRECTION, AND RESPONSIBILITY.

1-48 (a) In this subtitle, a dental assistant is under the direct
1-49 supervision, direction, and responsibility of a dentist if the
1-50 dentist:

1-51 (1) employs the dental assistant or is in charge of the
1-52 dental assistant; and

1-53 (2) is physically present in the dental office when
1-54 the dental assistant performs a delegated dental act.

1-55 (b) For purposes of Subsection (a)(2), physical presence
1-56 does not require that the supervising dentist be in the treatment
1-57 room when the dental assistant performs the service as long as the
1-58 dentist is in the dental office.

1-59 (c) In this subtitle, a dental assistant is under the
1-60 general supervision, direction, and responsibility of a dentist if
1-61 the dentist:

1-62 (1) employs the dental assistant or is in charge of the
1-63 dental assistant; and

1-64 (2) is responsible for supervising the services to be

2-1 performed by the dental assistant.

2-2 SECTION 4. Section 265.003, Occupations Code, is amended to
2-3 read as follows:

2-4 Sec. 265.003. PERMITTED DUTIES. (a) A dental assistant who
2-5 is not professionally licensed may~~+~~

2-6 ~~[(1)]~~ be employed by and work in the office of a
2-7 licensed and practicing dentist~~+~~ and

2-8 ~~[(2)]~~ perform one or more delegated dental acts under:

2-9 (1) the direct supervision, direction, and
2-10 responsibility of the dentist, including:

2-11 (A) the application of a pit and fissure sealant;

2-12 (B) coronal polishing, if the dental assistant
2-13 holds a certificate under Section 265.006; and

2-14 (C) the application of fluoride varnish; or

2-15 (2) the general supervision, direction, and
2-16 responsibility of the dentist, limited to:

2-17 (A) the making of dental x-rays in compliance
2-18 with Section 265.005; and

2-19 (B) the provision of interim treatment of a minor
2-20 emergency dental condition to an existing patient of the treating
2-21 dentist.

2-22 (a-1) A treating dentist who delegates the provision of
2-23 interim treatment of a minor emergency dental condition to a dental
2-24 assistant under Subsection (a)(2)(B) shall:

2-25 (1) delegate the procedure orally or in writing before
2-26 the dental assistant performs the procedure;

2-27 (2) retain responsibility for the procedure; and

2-28 (3) schedule a follow-up appointment with the patient
2-29 within a reasonable time.

2-30 (b) A dental assistant who applies ~~[may apply]~~ a pit and
2-31 fissure sealant under Subsection (a) ~~may~~ cleanse the occlusal and
2-32 smooth surfaces of the teeth immediately before and for the sole
2-33 purpose of preparing the tooth area for the placement of the pit and
2-34 fissure sealant or orthodontic bonding resin. A procedure
2-35 performed by a dental assistant under this subsection may not be
2-36 billed as a prophylaxis ~~[only if:~~

2-37 ~~[(1) the assistant is certified to apply a pit and
2-38 fissure sealant under Section 265.004; and~~

2-39 ~~[(2) the dentist described by Subsection (a):~~

2-40 ~~[(A) is a Medicaid provider; or~~

2-41 ~~[(B) practices in an area determined to be
2-42 underserved by the Texas Department of Health].~~

2-43 SECTION 5. Section 265.004(b), Occupations Code, is amended
2-44 to read as follows:

2-45 (b) To qualify for a certificate, an applicant must:

2-46 (1) have at least two years' experience as a dental
2-47 assistant; and

2-48 (2) have successfully completed a minimum of eight
2-49 ~~[16]~~ hours of clinical and didactic education in pit and fissure
2-50 sealants taken through an accredited dental hygiene program or a
2-51 dental assisting program accredited by the Commission on Dental
2-52 Accreditation of the American Dental Association and approved by
2-53 the board.

2-54 SECTION 6. Chapter 265, Occupations Code, is amended by
2-55 adding Section 265.006 to read as follows:

2-56 Sec. 265.006. CORONAL POLISHING CERTIFICATE. (a) The
2-57 board shall issue a coronal polishing certificate to a dental
2-58 assistant who qualifies under this section.

2-59 (b) To qualify for a coronal polishing certificate, an
2-60 applicant must have at least two years' experience as a dental
2-61 assistant and:

2-62 (1) have successfully completed at least eight hours
2-63 of clinical and didactic education in coronal polishing taken
2-64 through a dental assisting program accredited by the Commission on
2-65 Dental Accreditation of the American Dental Association and
2-66 approved by the board that includes courses on:

2-67 (A) oral anatomy and tooth morphology relating to
2-68 retention of plaque and stain;

2-69 (B) indications, contraindications, and

3-1 complications of coronal polishing;
3-2 (C) principles of coronal polishing, including
3-3 armamentarium, operator and patient positioning, technique, and
3-4 polishing agents;

3-5 (D) infection control procedures;
3-6 (E) polishing coronal surfaces of teeth; and
3-7 (F) jurisprudence relating to coronal polishing;

3-8 or

3-9 (2) present proof to the board that the assistant has:

3-10 (A) graduated from a dental assisting program
3-11 accredited by the Commission on Dental Accreditation of the
3-12 American Dental Association and approved by the board that includes
3-13 specific didactic course work and clinical training in coronal
3-14 polishing; or

3-15 (B) received certification of completion of
3-16 requirements specified by the Dental Assisting National Board and
3-17 approved by the board.

3-18 SECTION 7. Chapter 265, Occupations Code, is amended by
3-19 adding Section 265.007 to read as follows:

3-20 Sec. 265.007. CONTINUING EDUCATION FOR CERTIFICATE
3-21 HOLDERS. (a) To renew a certificate issued under this chapter, a
3-22 dental assistant must complete six hours of continuing education
3-23 each year in areas covering dental assistant duties.

3-24 (b) A dental assistant holding two or more certificates
3-25 authorized by this chapter must complete 12 hours of continuing
3-26 education each year to renew all of the certificates held by the
3-27 assistant.

3-28 (c) A dental assistant may fulfill continuing education
3-29 requirements through board-approved self-study, interactive
3-30 computer courses, or lecture courses.

3-31 SECTION 8. The following sections of the Occupations Code
3-32 are repealed:

- 3-33 (1) Section 258.002(b);
- 3-34 (2) Section 265.004(d); and
- 3-35 (3) Sections 265.005(j) and (k).

3-36 SECTION 9. The change in law made by this Act to Section
3-37 265.004(b), Occupations Code, applies only to an application for a
3-38 pit and fissure sealant certificate under that section that is
3-39 filed on or after the effective date of this Act. An application
3-40 filed before that date is governed by the law in effect on the date
3-41 the application was filed, and the former law is continued in effect
3-42 for that purpose.

3-43 SECTION 10. The change in law made by this Act by the
3-44 enactment of Section 265.007, Occupations Code, applies to a
3-45 certificate issued under Chapter 265, Occupations Code, that
3-46 expires on or after the effective date of this Act. A holder of a
3-47 certificate issued under that chapter that expires before the
3-48 effective date of this Act may renew that certificate by complying
3-49 with the law in effect at the time the certificate was issued, and
3-50 the former law is continued in effect for that purpose.

3-51 SECTION 11. This Act takes effect September 1, 2009.

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